



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

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Case #: ZBA 2017-08
Site: 466 Medford Street
Date of Decision: March 15, 2017
Decision: Petition Approved with Conditions
Date Filed with City Clerk: March 20, 2017

ZBA DECISION

| | |
|--------------------------------|---------------------------------------|
| Applicant Name: | Reginaldo Correa |
| Applicant Address: | 39 Crosby Street, Arlington, MA 02474 |
| Property Owner Name: | The First Rock, LLC |
| Property Owner Address: | 16 Amaranth Place, Medford, MA 02155 |
| Agent Name: | N/A |

| | |
|----------------------|--|
| <u>Legal Notice:</u> | Applicant, Reginaldo Correa, and Owner, The First Rock, LLC, seek a Special Permit under SZO §4.4.1 to construct an addition within the nonconforming right side yard and increase the floor area ratio (FAR) of a nonconforming structure and a Special Permit under SZO §9.13 for parking relief.* |
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*Upon further investigation, there is no increase in the number of required off-street parking spaces; therefore, a Special Permit under SZO §9.13 for parking relief is not required.

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| <u>Zoning District/Ward:</u> | RB zone/Ward 5 |
| <u>Zoning Approval Sought:</u> | §4.4.1 & §9.13 |
| <u>Date of Application:</u> | January 10, 2017 |
| <u>Date(s) of Public Hearing:</u> | 3/1 & 3/15/17 |
| <u>Date of Decision:</u> | March 15, 2017 |
| <u>Vote:</u> | 5-0 |



Appeal #ZBA 2017-08 was opened before the Zoning Board of Appeals at the Visiting Nurse Association on March 1, 2017. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one hearing of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The proposal is to renovate the interior and exterior of the structure, construct two small additions, and construct new front and rear porches. The structure will remain a four-family dwelling. Interior renovations will include finishing the basement and performing a complete gut renovation of the first, second, and third floors. The proposed two-bedroom units (#1 and #2) will share half of the basement and half of the first floor and the proposed three-bedroom units (#3 and #4) will occupy the entire second and third floors respectively. The Applicant is also proposing two rear additions on the left and right of the structure. The right addition will include the basement and three living stories that will square out a notch in the existing building. The left addition is proposed on the second and third story that will also square out a notch in the existing building. Additionally, the Applicant proposes to demolish the existing rear porch and replace it with a new three-story rear porch as well as renovate the two-story porch in the front.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. **Information Supplied:**

The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.

2. **Compliance with Standards:** *The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."*

The structure is currently nonconforming with respect to the use as a four-family dwelling and the following dimensional requirements: lot area, lot area per dwelling unit, floor area ratio (FAR), front, rear, and right side yard setbacks, frontage, and the number of parking spaces.

The proposal will impact the nonconforming dimensions of FAR and right side yard setback. The current FAR is 1.03 where the maximum allowed is 1.0 and the proposal is to add 1,070 square feet of net floor area to the structure by finishing the basement and constructing two small additions to increase the FAR to 1.31. The current right side yard setback is 1.7 feet where the requirement is 10 feet and the proposal is to construct an addition in the rear on the right that will square off this corner of the building, which will retain its 1.7 foot right side yard setback. These alterations to a nonconforming structure requires the Applicant to obtain special permits under §4.4.1 of the Somerville Zoning Ordinance (SZO).

Section 4.4.1 states that "[l]awfully existing nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of Article 5. The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal



water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character.”

In considering a special permit under §4.4 of the SZO, the Board finds that the alterations/use proposed would not be substantially more detrimental to the neighborhood than the existing structure/use. The proposed alterations would allow for the rehabilitation of the interior and exterior of the structure of which currently has poorly designed interior floor plans. The proposal has been designed with setbacks that minimally impact the neighbors and the ground coverage, landscaped area, pervious area, building height, and left side yard setback will continue to be conforming to the requirements of the SZO.

3. Consistency with Purposes: *The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."*

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to lessen congestion in the streets; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the district, which is, “to establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.”

4. Site and Area Compatibility: *The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."*

Surrounding Neighborhood: The surrounding neighborhood land uses are predominantly single, two-, and three-family dwellings of two and two and one half story structures.

Impacts of Proposal (Design and Compatibility): The design of the proposed additions will have minimal effects on the structure and the neighborhood. The Board is recommending a condition that the design of the front and rear porches be reviewed and approved by Planning Staff when the design of such porches are further developed.

5. Adverse environmental impacts: *The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.*

Impacts of Proposal (Environmental): There are no adverse environmental impacts anticipated from the proposal.

6. Vehicular and pedestrian circulation: *The circulation patterns for motor vehicles and pedestrians which would result from the use or structure will not result in conditions that create traffic congestion or the potential for traffic accidents on the site or in the surrounding area.*

Impacts of Proposal (Circulation): There are no adverse impacts on vehicular and pedestrian circulation anticipated from the proposal.

6. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*



The proposal will not create adverse impacts on the stock of existing affordable housing.

7. SomerVision Plan: *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville's neighborhoods, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

The locus is within an area of the SomerVision map that is designated to enhance. The proposal will allow the homeowners to enhance the exterior of the structure along a highly traveled corridor without significant impact on the neighborhood.

| <u>SomerVision Summary</u> | <u>Existing</u> | <u>Proposed</u> |
|----------------------------|-----------------|-----------------|
| <u>Dwelling Units:</u> | 4 | 4 |
| <u>Parking Spaces:</u> | 4 | 4 |



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie with Pooja Phaltankar absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

| # | Condition | Timeframe for Compliance | Verified (initial) | Notes | | | | | | | | | | | | |
|--|---|--------------------------|--------------------|-------|---|------------|------------------|--|------------------|---|-------------------|--------------------------------|------------------|---|------------------|--|
| 1 | Approval is for the interior and exterior renovations of the four-family structure. This approval is based upon the following application materials and the plans submitted by the Applicant: | BP/CO | ISD/PIng. | | | | | | | | | | | | | |
| | <table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>January 10, 2017</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>December 8, 2016</td><td>Plans submitted to OSPCD (A-1, A-2, A-3, A-3A, A-4, A-5, A-6, A-7, A-8, A-10, and A-11)</td></tr><tr><td>November 18, 2016</td><td>Plans submitted to OSPCD (A-9)</td></tr><tr><td>January 12, 2017</td><td>Plans submitted to OSPCD (A-12, A-13, and A-14)</td></tr><tr><td>February 2, 2017</td><td>Plans submitted to OSPCD (A-15 and A-16)</td></tr></table> | | | | Date (Stamp Date) | Submission | January 10, 2017 | Initial application submitted to the City Clerk's Office | December 8, 2016 | Plans submitted to OSPCD (A-1, A-2, A-3, A-3A, A-4, A-5, A-6, A-7, A-8, A-10, and A-11) | November 18, 2016 | Plans submitted to OSPCD (A-9) | January 12, 2017 | Plans submitted to OSPCD (A-12, A-13, and A-14) | February 2, 2017 | Plans submitted to OSPCD (A-15 and A-16) |
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| February 2, 2017 | Plans submitted to OSPCD (A-15 and A-16) | | | | | | | | | | | | | | | |
| Any changes to the approved site plan or elevations/use that are not <i>de minimis</i> must receive SPGA approval. | | | | | | | | | | | | | | | | |
| Pre-Construction | | | | | | | | | | | | | | | | |
| 2 | The Applicant must contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions. | BP | Eng | | | | | | | | | | | | | |
| Construction Impacts | | | | | | | | | | | | | | | | |
| 3 | The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by. | During Construction | PIng. | | | | | | | | | | | | | |

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| 4 | The Applicant shall at their expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard. | CO | DPW | |
| 5 | All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained. | During Construction | T&P | |
| Design | | | | |
| 6 | Applicant shall provide final material samples for siding, trim, windows, doors, and the rear and front porches to Planning Staff for review and approval prior to construction. | BP | Plng. | |
| 7 | An exterior light and electrical receptacle is required for the all levels of the porches and an electrical receptacle is required for the second level (if there is no access to the ground). | Final sign off | Wiring Inspector | |
| Site | | | | |
| 8 | Permeable pavers shall be used as the hardscape material for the parking spaces. The Applicant shall submit a landscaping plan to be reviewed and approved by Planning Staff prior to the issuance of a Building Permit that shall include plantings adjacent to the parking areas. Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards. | Perpetual | Plng. / ISD | |
| Traffic & Parking | | | | |
| 9 | Each dwelling unit on the locus shall each be designated one off-street parking space. | Perpetual | Plng. / ISD | |
| Miscellaneous | | | | |
| 10 | The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order. | Cont. | ISD | |
| Public Safety | | | | |
| 11 | The Applicant or Owner shall meet the Fire Prevention Bureau's requirements. | CO | FP | |
| 12 | To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties. | CO | Plng. | |
| 13 | The Applicant shall provide notice of intent to strictly comply with applicable State and Federal regulations regarding air quality including without limitation continuous dust control during demolition and construction. | CO | Plng/OSE | |
| Final Sign-Off | | | | |



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|----|---|----------------|-----------|--|
| 14 | The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval. | Final sign off | Plng. | |
| 15 | The rooms labeled as offices in the basement shall never become bedrooms unless proper zoning relief is granted. | Perpetual | Plng./ISD | |

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Danielle Evans
Elaine Severino
Josh Safdie

Attest, by the Administrative Assistant:

Dawn M. Pereira

Copies of this decision are filed in the Somerville City Clerk's office.
Copies of all plans referred to in this decision and a detailed record of the
SPGA proceedings are filed in the Somerville Planning Dept.

CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and
FOR VARIANCE(S) WITHIN



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_____ there have been no appeals filed in the Office of the City Clerk, or
_____ any appeals that were filed have been finally dismissed or denied.
FOR SPECIAL PERMIT(S) WITHIN
_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____

